

Rep. Joseph R. Pitts
Opening Statement
Energy and Commerce Joint Hearing
Subcommittees on Communications and Technology and Health
Hearing on “Protecting Americans from Illegal Bailouts and Plan
Cancellations Under the President’s Health Care Law”
July 28, 2014

The Subcommittee will come to order.

The Chair will recognize himself for an opening statement.

Today’s hearing is once again about protecting taxpayers and consumers from the consequences of the Affordable Care Act, namely an unlawful giveaway of taxpayer dollars to insurers under the ACA and another round of plan cancellations in the group market.

First, section 1342 of the Affordable Care Act (ACA) created what are known as “risk corridors,” a mechanism that will protect insurance companies from some of the financial losses they face under the Affordable Care Act.

It works by decreasing payments to plans whose expenses are below projections (those with healthier-than-expected enrollees) and redistributing those dollars to plans whose expenses exceed projections (those with sicker-than-expected enrollees).

The risk corridor provision is in effect from 2014 through 2016.

If done in a budget-neutral fashion, taxpayers would have little to be worried about when it comes to risk corridors. But, while the Administration has paid lip-service to the risk corridor program being budget neutral, it has also indicated that “regardless of payments and receipts, HHS will remit payments as required under section 1342 of the Affordable Care Act,” opening the door to what would essentially be a taxpayer-funded bailout of health insurers.

Additionally, according to the Congressional Research Service, and a plain reading of section 1342, the law does not provide an appropriation for these payments. In the absence of a Congressional appropriation, any payments are clearly an end-run around Congress, and, therefore, illegal.

The very idea of risk corridors assumes that there will be “winners” in the insurance industry, whose gains can be shifted to the “losers.” However, the President’s decision to selectively enforce provisions of the ACA, along with higher enrollment of older and sicker individuals than was originally projected, could cause industry-wide losses – putting the taxpayer on the hook for billions in payments.

The Committee will consider legislation today to protect taxpayers dollars from being unlawfully given to health insurance companies under the risk corridor program.

Second, as we’ve noted in previous hearings, the President promised numerous times that if you liked your health care plan you could keep it. However, millions of Americans experienced plan cancellations in the individual market last fall, and millions more will likely lose their employer-sponsored plans in the future.

Dr. Cassidy’s common sense bill, H.R. 3522, the Employee Health Care Protection Act, would permanently grandfather all group plans issued by health insurers that were in existence in 2013, allowing consumers to keep the coverage they like and giving small businesses better options than ACA-compliant plans.

I thank all of our witnesses for being here today to discuss these issues, and I yield the balance of my time to Rep. _____.